IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

RCRev..No. 209 of 2005

RCA.15/2002 of RENT CONTROL APPELLATE AUTHORITY, KASARAGOD
RCP.44/1999 of RENT CONTROL COURT, HOSDRUG

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REVISION PETITIONER/APPELLANT/RESPONDENT:

L.G. MOHANKUMAR,
PROPRIETOR, L.G. EQUIPMENTS,
THEKKEPURAM, AJANNOOR VILLAGE,
HOSDURG TALUK, AJANNOOR P.O.,
KASARGOD.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENT/RESPONDENT/PETITIONER:

ANJILLATH RABIYANATH,
D/O. LAINAKALILLATH MOIDU AND
W/O. ABDUL KHADER,
THEKKEPURAM, HOUSE HOLD,
AJANNOOR TALUK, HOSDURG TALUK,
AJANNOOR P.O., KASARGOD.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 209 of 2005

ORDER

Balachandran, J.

The tenant is the revision petitioner. The respondent filed R.C.P.No.44/99 against the petitioner for eviction on grounds falling under Sections 11(2)(b), 11(3), 11(4)(ii) and 11(4)(iii) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The Rent Control Court allowed eviction under section 11(3) of the Act, but negatived the claim for eviction on all other grounds. Against the order refusing to grant eviction under sections 11 (2)(b), 11(4)(ii) and 11(4)(iii) of the Act, the respondent/landlord filed R.C.A.No.31/02 and against the order granting eviction under Section 11(3) of the Act, the petitioner/tenant filed R.C.A.No.15/02 before the Rent Control Appellate Authority, Kasaragod. The appellate authority

dismissed both the appeals, confirming the order of the Rent Control Court. Hence, this revision.

2. The learned counsel for the petitioner/ tenant attempted to take us through the entire evidence in the case and wanted us to re-appreciate the question of grant of eviction under Section 11 (3) of the Act by concurrent findings entered into by the authorities below. The eviction granted under Section 11(3) of the Act by the authorities below was appreciating the entire evidence adduced in the case in the proper perspective. We are not of the view that the concurrent findings entered into by the authorities below on a proper appreciation and evaluation of the evidence adduced in the case is to be interfered with in revision. Consequently, the revision deserves only to be dismissed.

3. Finally, it is urged by the counsel for the petitioner that some time may be granted to the petitioner to surrender vacant possession of the

scheduled building to the respondent/landlord. We are of the view that the request made is reasonable and has to be granted, considering the fact that the petitioner is running a SSI Unit in the scheduled building.

In the result, we dismiss this Rent Control Revision. At the same time, we grant the petitioner time upto 31.12.2007 to surrender vacant possession of the scheduled building to the respondent/landlord on the following conditions:

i. that he shall deposit the entire arrears of rent, if any, in the court below with a detailed statement as to its correctness within three weeks from today.

ii. that he shall file an affidavit within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that he will surrender vacant possession of the scheduled building to the respondent/landlord positively on or before 31.12.2007 and that he will

continue to pay the monthly rents on the due dates itself till he actually surrenders vacant possession of the scheduled building to the respondent/landlord and

iii. that in case the petitioner fails to comply with the above conditions, he shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against him.

(J.B.Koshy, Judge)

18th June, 2007

(K.P.Balachandran, Judge)

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